

## Appendix.

In 1930 the structure of the government of the City of New York was set forth in the Greater New York Charter\* (L. 1901, ch. 466, as amended).

The Greater New York Charter set up a Board of Estimate and Apportionment consisting of the Mayor, the Comptroller, the President of the Board of Aldermen and the Presidents of the five boroughs within the City of New York (§226). All of these were independently elected officials. This body was vested with important powers. It was, as its name indicates, the arm of the City government having exclusive jurisdiction over expenditures and the incurring of debt and the corresponding duty of determining the methods by which money should be raised to meet City expenses and obligations.

The current expenses of the City were met out of the annual expense budget which had to be prepared and approved by the Board of Estimate and Apportionment and also approved by the Mayor and the Board of Aldermen (§226). It was provided that no contracts or obligations of a current nature could be incurred by the City without prior appropriation by the Board of Estimate and Apportionment therefor ( §§1541, 1542).

A somewhat different procedure was followed with respect to capital outlays as distinguished from current expenses. All public improvements, including the acquisition of real property, had to be approved by the Board of Estimate and Apportionment. The Board determined the method of acquisition and financing of specific parcels of real property, whether to be paid for by assessment for benefit or from the City's capital funds (Chap. XVII, Title 4 and Chap. XXI). In the latter event it was the duty of the

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\* It should be noted that in 1938 a new charter, known as the "New York City Charter", went into effect which, while making important structural changes, retained in the main the form of government prescribed by the Greater New York Charter.

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Board to determine whether serial bonds or corporate stock should be used to pay for such improvements and, within the framework of the Charter, the maturity and other terms on which such obligations should be issued (§169).

Thus the Board had complete control not only of the amounts necessary to be raised by taxation but also of the debt-incurring power of the City. The necessity for the centralization of these powers is emphasized by the provisions of the New York State Constitution providing both for a limit upon the amount of taxes which could be raised by a municipality in any one year and also upon the total amount of municipal debt which might be incurred. Under Article VIII, §10 of the New York State Constitution, in force in 1930, real estate taxes were limited to 2% of the assessed valuation of property within the City and the total municipal debt was limited to 10% of the assessed value of such property.

The exact procedure to be followed for the acquisition of real estate by the Board of Estimate and Apportionment varied in some respects depending on the type of property to be acquired, the purpose for which it was to be used, and the decision of the Board as to the desirable method of acquisition under all the circumstances. While the usual method by which property is acquired is by condemnation, nevertheless the Board was also given the power to proceed by purchase. No matter which of these methods was used, however, it was the Board of Estimate and Apportionment which had to authorize the transaction before the City could be bound upon any agreement involving the expenditure of money for the acquisition of real property (Charter, Chapter XVII, Title 4; Chapter XXI, and §§247, 442-a, 472, 602, 605-o). This is inherent in the very nature of the structure of the City government under the Greater New York Charter and a most necessary protection for the taxpayers of the City who are ultimately compelled to pay the bills.

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The care with which the Greater New York Charter safeguarded the expenditure of public moneys and the incurring of public debts is paralleled by its provisions with respect to the method of redemption of such public obligations and the protection of the City's creditors. Chapter VI, Title 4 sets up various sinking funds for the redemption of securities issued by the City of New York, the principal one of these being known as "The Sinking Fund of The City of New York" (§206). A Board of Commissioners of the Sinking Fund was set up, consisting of the Mayor, the Comptroller, the President of the Board of Aldermen, the Chairman of the Finance Committee of the Board of Aldermen and the Chamberlain of The City of New York, who are in effect trustees for the benefit of the public security holders (§204). It should be noted that the composition of this Board is very different from that of the Board of Estimate and Apportionment.

The Charter placed in the hands of the Commissioners of the Sinking Fund the exclusive power to sell real property owned by the City. This is because, in effect, the real property of the City is a part of the security for the redemption of these obligations. It is carefully provided that all such sales must be at public auction after appropriate public notice. The proceeds of such sales are required by law to go either into the sinking fund itself or into a special fund known as "The Real Property Fund", which can be used only for limited purposes (§205). Nowhere does the Charter give the Sinking Fund Commissioners any power to deal with the purchase of real property and such matters are entirely outside of the scope of their functions.\* Their functions are limited to the administration and extinguishment of existing public debt and the sale of real property as a corollary thereto.

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\* There is one exception in the Charter. Under §§22 of the Charter, this body, in conjunction with the dock commissioner, was empowered to purchase one specific kind of property only—wharf property. But even in this case, the power to make the necessary appropriation belonged to the Board of Estimate and Apportionment.

